

REMARKS

Claims 7-24 are pending in the present application. Claims 15, 21, and 24 have been rewritten to more clearly define subject matter which was invented by Applicant. Unless otherwise noted, these claims have been amended without acquiescing to Examiner's arguments, and solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent Business Goals (PBG)¹, and without waiving the right to prosecute the unamended (or similar) claims in another application. The amendments are not intended to narrow the scope of the claims within the meaning of *Festo*².

Claims 15, 21, and 24 stand rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite.

Claims 7-24 stand rejected under the judicially created doctrine of obviousness type double patenting over claim 1-16 of U.S. 6, 105, 833.

Applicants respectfully submit that the remarks and amendments made herein overcome all of the Examiner's pending rejections.¹

1. The Pending Claims Are Definite

Claims 15, 21, and 24 have been amended, without acquiescing to the examiner's arguments, to depend from claims 14, 20, and 23, respectively. Accordingly the amendments are technical in nature and have been made solely to advance the business interests of the Applicants. Applicants believe the claims are now in condition for allowance.

¹ 65 Fed. Reg. 54603 (September 8, 2000).

² *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 234 F.3d 558, 56 USPQ2d 1865 (Fed. Cir. 2000).

2. Nonstatutory Obviousness-Type Double Patenting

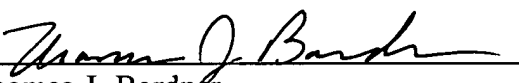
Claims 7-24 stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-16 of U.S. 6,015,833. Applicants must respectfully disagree with the Examiner's conclusion.

However, in the interest of furthering their business interests and the prosecution of the present application, yet without acquiescing to the Examiner's rejection, Applicants herein offer to submit a Terminal Disclaimer to overcome the pending rejection upon the Examiner's indication of allowable subject matter. Applicants note that "the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." (*Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870)Fed. Cir. 1991)); MPEP §804.02 (II)). Applicants invite the Examiner to contact them to discuss the submission of the Terminal Disclaimer.

C O N C L U S I O N

All grounds of rejection and objection of the Office Action of May 9, 2002, having been addressed, reconsideration of the application is respectfully requested. It is respectfully submitted that the invention as claimed fully meets all requirements and that the claims are worthy of allowance. Should the Examiner believe that a telephone interview would aid in the prosecution of this application, Applicants encourage the Examiner to call the undersigned collect at (608) 218-6900.

Dated: September 9, 2002


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PATENT

Attorney Docket No. **CONLINCO-04036**

APPENDIX 1

**MARKED-UP VERSION OF REWRITTEN, ADDED,
AND/OR CANCELLED CLAIMS**

The following is a version of the claims pursuant to 37 C.F.R. §1.121 (c)(1)(ii) with markings showing changes made herein to the previous version of record of the claims.

In the claims:

Please amend claims 15, 21, and 24 to read as follows:

15. (Amended once) The food product of Claim [13] 14, wherein said ester is selected from the group consisting of methyl esters, ethyl esters, triglycerides.
21. (Amended once) The composition of Claim [19] 20, wherein said ester is selected from the group consisting of methyl esters, ethyl esters, triglycerides.
24. (Amended once) The food product of Claim [22] 23, wherein said ester is selected from the group consisting of methyl esters, ethyl esters, triglycerides.